



CV 19 2239 Timmons

IN THE DISTRICT COURT IN AND FOR OKLAHOMA COUNTY  
STATE OF OKLAHOMA

APRIL & ANDREW GRIEB, individually and )  
as parents of R.K.G and S.M.G. both minors; )  
ANDY & AMY BROOKS, individually and as )  
parents of B.O.B and A.R.B, both minors; )  
JACOB & CHARISSA DEARMON, Individually )  
and parents of R.T.D., S.C.D. and W.C.D., all )  
minors, )

Plaintiffs, )

vs. )

COMMUNITY STRATEGIES, INC., d/b/a as )  
EPIC CHARTER SCHOOLS, an independent )  
School District of Oklahoma, )

Defendant. )

FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

OCT -1 2019

RICK WARREN  
COURT CLERK

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CASE NO.:

Judge:

CV-2019-2239

EMERGENCY PETITION FOR DECLARATORY JUDGMENT  
AND  
APPLICATION FOR TEMPORARY RESTRAINING ORDER

COME NOW the Plaintiffs, Andrew and April Grieb, individually and as parents of R.K.G., S.M.G. and T.A.G., all minors; Andy and Amy Brooks, individually and as parents of B.O.B. and A.R.B., both minors; Jacob and Charissa Dearmon, individually and as the parents of R.T.D., S.C.D. and W.C.D., all minors, by and through their attorney of record Matthew C. Frisby, of Frisby Law Firm, P.C., and for their causes of action against Community Strategies, Inc. d/b/a Epic Charter Schools (hereinafter referred to as "Epic") alleges and states as follows:

JURISDICTION AND VENUE

1. Plaintiffs Andrew and April Grieb, a married couple are the parents of minors R.K.G., S.M.G. and T.A.G. and at all times material to the events described herein, were and are residents of Oklahoma County, State of Oklahoma.
2. Plaintiffs Andy and Amy Brooks, a married couple are the parents of minors B.O.B. and A.R.B. and at all times material to the events described herein, were and are residents of Oklahoma County, State of Oklahoma.
3. Plaintiffs Jacob and Charissa Dearmon, a married couple are the parents of minors R.T.D., S.C.D. and W.C.D. and at all times material to the events described herein, were and are residents of Oklahoma County, State of Oklahoma.
4. That the Defendant, Community Strategies Inc. d/b/a Epic Charter Schools, an Independent School District of Oklahoma, is a political subdivision of the State of Oklahoma with its principal place of business in Oklahoma County, Oklahoma.
5. That Defendant, acting as a charter school in the State of Oklahoma is governed in part by the Oklahoma Charter Schools Act, 70 O.S. § 3-130 *et seq.*
6. That the actions giving rise to this action occurred in Oklahoma County, State of Oklahoma.
7. The Court has subject matter jurisdiction over the claims alleged herein and may properly exercise personal jurisdiction over the Defendant.
8. Pursuant to 12 O.S. § 1653(B), venue is proper in Oklahoma County.

#### **FACTUAL BACKGROUND**

9. Paragraphs 1 through 9 are incorporated by reference.
10. Epic is a free, public, online charter school for grades Pre-K thru 12th with a curriculum that, within certain guidelines is self-paced for the student.

11. Epic and its actions, with regard to enrollment of students is governed by the Oklahoma Charter Schools Act, 70 O.S. § 3-130 *et seq.* ("Act").
12. The Oklahoma Charter Schools Act, 70 O.S. § 3-140(A) requires Epic to enroll those students whose legal residence is within the boundaries of the State of Oklahoma and who submit a timely application. Epic is also prohibited by the Act from discriminating in its admission and enrollment practices to include discriminating or limiting enrollment based on income levels.
13. The Oklahoma Charter Schools Act does not prohibit concurrent enrollment in a charter school and a private school/home-school program. Plaintiffs recognize 70 O.S. § 3-136(A)(9) does prohibit a charter school from being used as a method of generating revenue for students who are being home-schooled and are not being educated at an organized charter school site.
14. Collectively the Plaintiffs deny they used Epic as a method of generating revenue for the students.
15. Plaintiffs R.K.G. and S.M.G. were enrolled for the 2019/2020 school year and are also enrolled in a private school, which R.K.G. and S.M.G. attend five (5) days a week. Parents, Andrew and April Grieb were notified in August 2019 that their two children were being unenrolled from Epic Charter Schools due to the concurrent enrollment in the private school.
16. Plaintiffs B.O.B. and A.R.B. were enrolled in Epic for the 2019/2020 school year and are currently enrolled in a private school, which they attend two (2) days a week. Parents, Andy and Amy Brooks were notified in August 2019 that their two

children were being unenrolled from Epic Charter Schools due to the concurrent enrollment in the private school.

17. Plaintiffs R.T.D., S.C.D. and W.C.D. were enrolled in Epic for the 2019/2020 school year and are currently enrolled in a private school, which they attend two (2) days a week. Parents, Jacob and Charissa Dearmon were notified in September 2019 that their three children were being unenrolled from Epic Charter Schools due to the concurrent enrollment in the private school.
18. Pursuant to the requirements of the Oklahoma Charter Schools Act, 70 O.S. § 3-135(A), Epic and the Oklahoma Statewide Virtual Charter School Board entered into a contract for Charter School Sponsorship, wherein the Oklahoma Statewide Virtual Charter School Board contracted to sponsor Epic as a charter school in the State of Oklahoma.
19. The Charter Contract between Epic and Oklahoma Statewide Virtual Charter School Board includes a clause that prevents and limits the ability of Oklahoma students to enroll and stay enrolled in Epic. More specifically the clause has been used to justify the involuntary unenrollment of Epic students who are concurrently enrolled in a private school/home-school educational program.

Section 7.12 of the Charter Contract states:

**Prohibition of funding home-schooled students or private school students.** Pursuant to 70 O.S. § 3-136(A)(9), under no circumstances shall the Charter School and/or its program of instruction offered in accordance with the contract be used to provide or otherwise supplement instruction of home-schooled students or students enrolled in private schools, or used as a method of generating revenue for students who are being home-schooled or are enrolled in private schools.

20. Beginning as early as August 2019 representatives of Epic began notifying parents of students enrolled in Epic that they would be required to unenroll their students from Epic if they were concurrently enrolled in Epic and a private school/home-school educational program. Representatives advised the parents they would have to choose to be enrolled in either Epic or the private school/home-school educational program but could not be enrolled in both, if the parents refused to unenroll from either program Epic would involuntarily unenroll them from the Epic program.
21. Based on the information and belief of the Plaintiffs, Epic based the requirement to unenroll concurrently enrolled students on the section 7.12 of the Charter Contract.
22. Plaintiffs are unaware of any attempt by Epic to make an inquiry into whether or not the parents or the effected students were using the charter school as a method of generating revenue for students, in violation of 70 O.S. § 3-136(A)(9).
23. Epic's actions of requiring unenrollment and/or involuntarily unenrolling students that are concurrently enrolled in Epic and private school/home-school educational program violates the Act, considering that Epic is a statewide public charter school that is required to accept any student that resides in the State of Oklahoma and submits a timely application for enrollment..
24. Further, Epic's actions of requiring unenrollment and/or involuntarily unenrolling students that are concurrently enrolled in Epic and a private school educational program amounts to discrimination against those students that have the income

level to attend private school. Oklahoma law prohibits discrimination or the ability of a charter school to limit admission based on income levels. 70 O.S. § 3-140(D) provides: Except as provided in subsections B and C of this section, a charter school shall not limit admission based on ethnicity, national origin, gender, *income level*, disabling condition, proficiency in the English language, measures of achievement, aptitude, or athletic ability.

25. Plaintiffs seek the answers to three fundamental questions of law requiring the Court to interpret the Charter Schools Act and the Charter Contract of sponsorship entered into by Epic. The three questions are:
- a. Without a showing the student is using Epic to generate revenue, is Epic's involuntary unenrollment of students concurrently enrolled in Epic and a private/home-school program permissible under the Act;
  - b. Without a showing the student is using Epic to generate revenue, is Epic's involuntary unenrollment of students concurrently enrolled in Epic and a private/home-school program permissible under the Charter Contract Epic is a part of with its' sponsor; and
  - c. Does Epic's involuntary unenrollment of students concurrently enrolled in Epic and a private/home-school program amount to a violation of 70 O.S. § 3-140(D), limitation of admission based on the student's family's income level?

**COUNT 1: DECLARATORY RELIEF**

26. Paragraphs 1 through 27 are incorporated by reference.

27. Plaintiffs seek declaratory judgment pursuant to 12 O.S. § 1651-1657, as the matters addressed herein constitute an actual, justiciable controversy existing between the parties.
28. Plaintiffs seek a declaration of the rights and obligations of the parties under the terms of the Oklahoma Charter Schools Act and under Charter Contract between Epic and Oklahoma Statewide Virtual Charter School Board.
29. Pursuant to the aforementioned facts and allegations, the Plaintiffs are entitled to a declaratory judgment determining that:
  - a. Epic's use of Section 7.12 of the Charter Contract prohibiting students from being enrolled concurrently in Epic and a private school/home-school educational program violates the Oklahoma Charter Schools Act and 70 O.S. § 3-140(A);
  - b. Epic's action violated the Oklahoma Charter Schools Act and 70 O.S. § 3-140(A) by requiring the Plaintiffs' to unenroll from Epic if they were concurrently enrolled in a private or home-school educational program; and
  - c. Epic's actions of unenrolling students based on a claim of concurrent or dual enrollment violates 70 O.S. § 3-136(A)(9), without any creditable finding that the charter school was being used as a method of generating revenue for the benefit of students who are being home-schooled and are not being educated at an organized charter school site violates the Oklahoma Charter Schools Act.
30. A declaration of the rights and obligations of the parties under the terms of the Act and the Charter Contract is necessary so that the Plaintiffs may properly

proceed with the educational programs for their children and enrolling their students in the public school of their choice. Pursuant to its powers under 12 O.S. 1651, this Court should declare the rights of the parties, including, but not necessarily limited to, that the Plaintiffs, as Oklahoma residents, may choose to attend Epic as a statewide public charter school and to attend a private school or home-school educational program, and that Epic is required to abide by applicable law and to disregard any provision of the Charter Contract inconsistent with this declaration

**COUNT 2: INJUNCTIVE RELIEF**

31. Paragraphs 1 through 32 are incorporated by reference.
32. Plaintiffs seek entry of a temporary injunction from unenrolling any student (otherwise eligible for enrollment) who are simply concurrently enrolled in Epic and a private/home-schooled program without any creditable finding that the charter school was being used as a method of generating revenue for students in violation of 70 O.S. § 3-136(A)(9).
33. Plaintiffs seek entry of a temporary injunction from unenrolling any student (otherwise eligible for enrollment) based on section 7.12 of Epic's Charter Contract, without any creditable finding that the charter school was being used as a method of generating revenue for students in violation of 70 O.S. § 3-136(A)(9).
34. No adequate remedy at law exists for Plaintiffs to remedy the harm done by Epic by involuntarily unenrolling students without statutory authorization.
35. Substantial threat exists that the Plaintiffs and others similarly situated will suffer permanent and irreparable injury in the absence of the requested injunctive relief.

36. The Plaintiffs are entitled to a temporary injunction ordering Epic to comply with the Oklahoma Charter Schools Act by refraining from unenrolling students simply on Epic's belief the students are concurrently enrolled in Epic and either a private/home-school educational program, without any creditable finding that the charter school was being used as a method of generating revenue for students who are being home schooled and are not being educated at an organized charter school site.
37. Plaintiffs request the Court's immediate action on this Restraining Order as the actions of Epic sought to be restrained are of a continuous and ongoing nature that will cause irreparable harm to Plaintiffs and others similarly situated if prompt action is not taken to cause such unauthorized unenrollment continues.

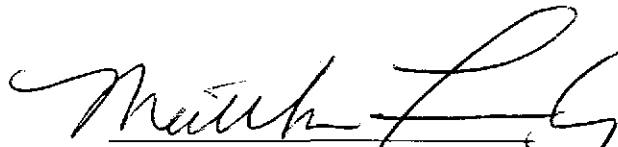
#### **REQUEST FOR RELIEF**

**WHEREFORE**, Plaintiffs respectfully request that the Court enter judgment in their favor and against Epic, and award the following relief:

- A. Declare that, unless there is a showing that student is using Epic to generate revenue for their own benefit, the provision(s) in Epic's Charter Contract used to prevent enrollment and/or involuntary unenroll Epic students for being concurrently enrolled in Epic Charter School and a private/home-school program violates 70 O.S. § 3-140(A), both on its face and as applied to Plaintiffs;
- B. Declare that as a statewide public charter school, Epic is required to enroll any student that resides in Oklahoma that files a timely application for enrollment subject to any capacity or academic program limitations provided for in the Act;

- C. Temporarily enjoin Epic, its officers, agents, servants, and employees from involuntarily unenrolling Epic students concurrently enrolled in Epic and a private/home-school educational program;
- D. Award Plaintiffs their costs and reasonable attorneys' fees in this action;
- E. Grant Plaintiffs such other relief as this Court may deem just and proper

FRISBY LAW FIRM

A handwritten signature in black ink, appearing to read "Matthew C. Frisby", is written over a horizontal line.

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